

**United States Department of the Interior
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021
Telephone: (602) 242-0210 FAX: (602) 242-2513**

AESO/FA
22410-2006-FA-0036

August 8, 2006

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

Thank you for Public Notice 2006-00878-RWF (PN) dated July 7, 2006, issued by the U.S. Army Corps of Engineers. El Dorado Holdings, Inc. has submitted an application for a Section 404 Clean Water Act (CWA) permit to construct the 8,703-acre Douglas Ranch Southeast Planning Area residential and commercial development project in the Town of Buckeye, Maricopa County, Arizona (Section 2-5, 9-11, 14-16, and 23, T3N, R5W). These comments are provided under the authority of, and in accordance with, the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review of the permit application under the FWCA.

The proposed project will be located in the valley between the White Tank Mountains and the Hassayampa River. According to the PN, the 8,732-acre "Southeast Planning Area" is part of a larger, yet unplanned Douglas Ranch property consisting of approximately 33,000 acres. The proposed project area ranges in elevation from approximately 1,300 feet above mean sea level in the southeastern portion of the proposed project area to approximately 1,550 feet in the northwestern portion of the proposed project area. Plant communities within the proposed project area are Arizona Upland Desert Scrub and include creosote (*Larrea tridentata*), triangle leaf bursage (*Ambrosia deltoidea*), foothill palo verde (*Cercidium microphylla*), mesquite (*Prosopis velutina*), and saguaro (*Carnegiea gigantea*). Daggs Wash, Star Wash and Jackrabbit Wash are dominated by more robust mesquite, blue palo verde (*Cercidium floridum*), ironwood (*Olneya testota*), desert hackberry (*Celtis pallida*), canyon ragweed (*Ambrosia ambrosioides*), desert broom (*Baccharis sarothroides*), and burro bush (*Hymenoclea salsola*).

The PN indicates that, of a total of 235.65 acres of jurisdictional waters on site, the proposed project would directly affect 9.06 acres through the discharge of dredged and fill material for the construction of road crossings, driveways, pad fills, bridges, and utility crossings integral to the

Douglas Ranch development plan. We believe it is proper to assess the total impact of the total development, including any parts to be located on uplands and any secondary effects, including those located above the ordinary high water mark. The totality of existing and projected cumulative impact of all developments affecting a waterway or group of related waterways and the dependent resources thereof also must be considered (40 FR 55810-55824). We believe the footprint of the permitted project that should be assessed by the Corps is, at minimum, the total 8,732 acres of development. The PN provides no information regarding the effects of upland development on jurisdictional washes not subject to a discharge, nor does it provide information on the effects of the larger project on a landscape scale.

We believe this project is functionally similar to Lone Mountain (2000-01928-RWF), for which your agency previously expanded the scope of analysis to the entire project footprint. Thus, your scope of analysis for Douglas Ranch should be structured similarly. This would be consistent with Corps regulations involving the public interest review (33 CFR 320.4), regulations for implementing the National Environmental Policy Act (CFR 33, Appendix B to Part 325) (40 CFR, Parts 1502.16 and 1508.8), and the 404(b)(1) Guidelines (CFR 40 Part 230 and 230.11).

The PN states that a preliminary determination has been made that an environmental impact statement (EIS) is not required for the proposed work. We request you re-evaluate this determination in light of comments by the EPA on projects such as Festival Ranch, Elianto, and Mirielle. For instance, in a letter dated December 8, 2003, regarding the environmental effects of the proposed Festival Ranch project, the Environmental Protection Agency (EPA) stated “effects are reasonably foreseeable and clearly pass NEPA’s significance threshold, both individually and cumulatively (40 CFR 1508.27)... We strongly recommend that the environmental effects facilitated by the Corps’ permit action be analyzed in an EIS.”

Due to similarities in the purpose and scope of the Festival Ranch and Douglas Ranch projects, we urge you to reconsider the need for an EIS. Also, we recently provided comments on environmental assessments for both Lone Mountain and Festival Ranch (posted at <http://www.fws.gov/arizonaes/>), and believe those comments would be very useful in guiding the preparation of your NEPA document. For instance, although your agency expanded its scope of analysis for Lone Mountain, we found the EA to be incomplete with respect to quantification of impacts, scope of mitigation, and criteria for compliance monitoring. We request the opportunity to review the draft NEPA document for Douglas Ranch so we may evaluate your environmental impact analysis and complete our mandated review of the proposed project.

Based on the level of development that is currently ongoing and planned around the White Tank Mountains and Hassayampa River, we suggest a regional cumulative impacts analysis be undertaken. This is particularly important in a regional context considering other section 404-permitted and/or proposed residential activities including Festival Ranch (PN 2000-00966-RWF), Verrado-Whitestone (PN 974-0218-RWF), Sundance (PN 2000-01264), Tartesso West (2002-00844-RWF), Trillium (2003-01009-AP), Westwind (2002-01341-AP), Elianto (2001-01153-RWF), Anthem West (2001-01566-RWF), Mirielle (2006-00346-RWF), Surprise Foothills (2005-01191-AP), and Sunhaven (2002-00976-AP). The EPA expressed a similar concern to the Corps in a letter dated November 10, 2004, regarding the need for comprehensive analysis under NEPA for master-planned communities in the Buckeye Valley.

Without thorough impact analysis and mitigation, we believe it will be difficult, if not impossible, to preserve the biological integrity of jurisdictional waters within this region of the State. This could have significant environmental consequences on the biological diversity and productivity of the greater White Tank Mountains ecosystem, including foothills, bajadas, and alluvial fans; and the Hassayampa River. These issues should be coordinated with appropriate agencies and stakeholders that have an interest in preserving and protecting the integrity of these resources, including jurisdictional washes, which are inseparably linked both ecologically and biologically to the entire regional ecosystem.

We believe your analysis for Douglas Ranch should address the potential effects of the development on Sonoran desertscrub vegetation communities and local and regional wildlife resources; including potential shifts in community structure and long-term effects on population demographics and viability. This analysis should use standardized empirical methodologies to quantify and evaluate the impacts on biotic resources, such as vegetative structure, volume, cover, biomass, density, diversity, etc.; and wildlife species richness, evenness, relative abundance, diversity, etc. These methods should be derived from standard texts, such as Bookhout (1996) and other relevant literature, and developed in coordination with all appropriate Federal, State, and local agencies and stakeholders.

The PN provides no information regarding preparation of mitigation and monitoring plan. In accordance with existing regulations and procedures, mitigation measures should be developed that first address the issues of avoidance and minimization, then addresses compensation. The Corps' recent Special Public Notice (970031200-RRS) for Mitigation Guidelines and Monitoring Requirements, in regard to compensatory mitigation site design (page 14), states "[t]he factors used in a preliminary design of the compensatory mitigation site should have a functional assessment basis." Compensatory mitigation should mitigate both vegetative and animal parameters. Monitoring provisions and criteria should be developed to track the success of mitigation for animal populations as well as vegetation communities. We do not believe preserving small isolated habitat islands within an urban landscape can adequately mitigate the expected detrimental affects on regional wildlife communities and the loss of habitat contiguity. In general, the principles of landscape ecology support the notion that landscape islands less than 250 acres in size are not large enough to protect ecosystem integrity and function (Barnes and Adams 1999). Larger reserves are preferred by conservationists because they contain a wider range of conditions to support more species, particularly those requiring large home ranges (Hunter 1996).

We believe it would be within your authority to require mitigation that addresses the totality of project-related impacts, both above and below the ordinary mark. The Corps recently acknowledged its authority over uplands in the March 28, 2006, Proposed Rule for Compensatory Mitigation for Losses of Aquatic Resources (71 FR 15520-15556) where it states on page 15527 "...the district engineer may grant compensatory mitigation credit for upland areas within a compensatory mitigation project, if those uplands increase the overall ecological functioning of the compensatory mitigation site or other aquatic resources in the watershed or ecoregion." The Corps also recognized this authority in the August 9, 2001, Proposal to Reissue and Modify Nationwide Permits (66 FR 42070-42100) where it states on page 42071 "The Corps

statutory authority to require vegetated buffers next to streams and other open waters originates in the goal of the CWA which is to restore and maintain the chemical, physical and biological integrity of Nation's waters." We request that the draft mitigation and monitoring plan be provided to our office so that we may evaluate the scope of the plan, review the proposed methodologies, provide written recommendations, and complete our review.

We request this permit be held in abeyance and the comment period extended until we have had an opportunity to review the draft EA and mitigation plan, and provide additional comments and recommendations in accordance with the FWCA and section 404(m) of the CWA. We would also appreciate the opportunity to review any response to our comments prepared by the applicant. If we can be of further assistance please contact Mike Martinez (x224) or Debra Bills (x239).

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
White Tanks Concerned Citizens, Waddell, AZ

W:\Mike Martinez\DouglasRanch-pn.doc:cgg

Literature Cited

Barnes, T.G. and L. Adams. 1999. A guide to urban habitat conservation planning. Cooperative Extension Service. University of Kentucky, College of Agriculture. 8 pp.

Bookhout, T.A., Editor. 1996. Research and management techniques for wildlife and habitats. Fifth ed., rev. The Wildlife Society, Bethesda, Md. 740 pp.

Hunter, M.L. 1996. Fundamentals of Conservation Biology. Blackwell Science. 482 p.